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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,879	09/28/2001	Richard D. Smith	JLD-1113-US	3594

7590

02/26/2002

Jackie Lee Duke  
Attorney at Law  
Suite 100  
1001 West Loop South  
Houston, TX 77027

EXAMINER

BOLES, DEREK

ART UNIT

PAPER NUMBER

3749

DATE MAILED: 02/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/965,879

Applicant(s)

SMITH, RICHARD D.

Examiner

Derek S. Boles

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 28 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mason (4,558,637) in view of Rickert et al. (5,738,581). Mason discloses all of the limitations of the claims except for a sealing mortar being applied between the ridge row vent and the roofing tiles. Rickert et al. discloses the presence of a sealing mortar being applied between the ridge row vent and the roofing tiles. See col. 4, lines 36-41. Hence, one skilled in the art would find it obvious to modify the heating system of Mason to include the sealing mortar being applied between the ridge row vent and the roofing tiles of Rickert et al. for the purpose of preventing weather ingress. See 30 for ridge row header, 20 for ventilation slot, 46 for ridge row vent and 32 for ridge row cap tiles.

Claims 2-9 and 11-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mason in view of Rickert et al. and in further view of Wolfert (4,325,290). Mason in view of Rickert et al. discloses all of the limitations of the claims except for providing a filtration material. Wolfert discloses the presence of a filtration material. See 80. Hence, one skilled in the art would find it obvious to modify the system of Mason in view of Rickert et al. to include a filtration material of Wolfert for the purpose of preventing weather ingress. Regarding claims 4, 13 and 21 see 20 of Mason. Regarding claims 5, 14 and 22 see 54 of Mason. Regarding claims 6, 15 and 23, see col.

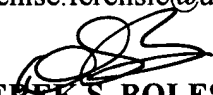
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6 lines 14-20. Regarding claims 7 and 16, see col. 6 lines 9-13. Regarding claims 8, 17 and 24, see 40. Regarding claims 9, 18 and 25, see 44.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The provided references are representative of the state of the art that is applicable to the applicant's invention. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derek S. Boles at (703) 308-1804 or fax number (703) 746-4569 or [derek.boles@uspto.gov](mailto:derek.boles@uspto.gov). Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861. The Supervisory Primary Examiner for Art Unit 3749 is Denise Esquivel who can be reached at (703) 308-2597 or at [denise.ferensic@uspto.gov](mailto:denise.ferensic@uspto.gov).

D.S.B.

  
2/19/02  
**DEREK S. BOLES**  
**PATENT EXAMINER**  
**GROUP 3700**